

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUSTO ENRIQUE INGA, on behalf of himself and
others similarly situated,

Plaintiff,

-v-

NESMA FOOD CORP. d/b/a BIG ARC CHICKEN, et
al.,

Defendants.

CIVIL ACTION NO.: 20 Civ. 909 (ALC) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

On November 24, 2020, the Court directed Plaintiff to initiate default judgment proceedings against Defendants for their failure to comply with Court orders. (ECF No. 33). The Court notes that “Under Rule 55, a party defaults when he ‘has failed to plead or otherwise defend’ the case at hand.” Guggenheim Capital, LLC v. Birnbaum, 722 F.3d 444, 454 (2d Cir. 2013) (quoting Fed. R. Civ. P. 55(a)) (emphasis added). Although the “typical” case in which a default is entered involves the defendant’s failure to answer, the Second Circuit has embraced a “broad understanding” of the phrase “otherwise defend,” which includes failing to comply with court orders. City of N.Y. v. Mickalis Pawn Shop, LLC, 645 F.3d 114, 129–30 (2d Cir. 2011) (internal citation omitted and collecting cases).

On December 1, 2020, Plaintiff filed a Letter-Motion requesting an extension of time until January 8, 2021 to file a motion to strike Defendants’ answer and have judgment entered against them. (ECF No. 34). The Court ordered Defendants to respond to Plaintiff’s Letter-Motion by Friday, December 4, 2020 (ECF No. 35) and they have not done so.

Accordingly, **by January 8, 2021**, Plaintiff shall commence briefing a motion for default judgment in accordance with the Individual Practices of the Honorable Andrew L. Carter, Jr.

Dated: New York, New York
December 10, 2020

SO ORDERED:



SARAH L. CAVE
United States Magistrate Judge